



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Washington, D.C. 20460

FEB - 1 2018

OFFICE OF  
GENERAL COUNSEL

**MEMORANDUM**

SUBJECT: Recusal Statement

FROM: Matthew Z. Leopold  
General Counsel

A handwritten signature in blue ink, appearing to read "M3f", is written over the name "Matthew Z. Leopold".

TO: E. Scott Pruitt  
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

*OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my

former employer, **Carlton Fields Jorden Burt, P.A.**, or any former client to whom I provided legal services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means five or more parties. Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA.<sup>1</sup>

RECUSAL LIST	
In effect until January 7, 2020	
FORMER EMPLOYER: <b>Carlton Fields Jorden Burt, P.A.</b>	
FORMER CLIENTS:	
25 Countryside West, LLC AEW Capital Management, LP AIG Environment Amherst Consulting Company, LLC Anderson Columbia Co., Inc. Arcadis US, Inc AT&T BASF Corporation Blackwater Resources, LLC Bluefield Ranch Mitigation Bank, LLC Burnett Oil Co., Inc. Collier Resources Company LLP Comanco Environmental Corporation East Bay Farms, LLC Edgar Minerals, Inc. Evergreen Communities, Inc. Ford Motor Company Foundation for Better Environmental Stewardship FPL Group, Inc.	The Geo Group, Inc. Girl Scouts of West Central Florida, Inc. Hendry Energy Services, LLC Howard Group Development Company Laurus Corp. Leisure Resorts, LLC Mosaic Fertilizer, LLC Neology, Inc. Norstar Development USA, L.P. PRH Investments, LLC The Republican National Committee Resource Environmental Solutions, LLC Sharfi, Benjamin K. Siemens Corporation Tucker, Leslie Hollis The Villages of Lake-Sumter, Inc. WCI Communities, LLC WRS, Inc

After consulting with OGC/Ethics, I am advised that I do not need to recuse myself from matters involving NextEra Energy, the parent company of one of my former clients, because I

<sup>1</sup> For my former clients who are not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.



did not personally provide legal services to this entity. However, in an abundance of caution, I am voluntarily recusing myself from matters involving **NextEra Energy** at this time.

#### *OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS*

I am advised by OGC/Ethics that Executive Order 13770 defines “former employer” to exclude state or local government entities,<sup>2</sup> and the Office of Government Ethics has determined that the same exclusion applies to the definition of “former client.”<sup>3</sup> But as an executive branch employee, I understand that I am also subject to the federal impartiality standards and have a one-year cooling off period with any former client who is a state or local government.

Therefore, I will not participate personally and substantially in any particular matter involving specific parties in which **Okaloosa County, Florida** is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). For federal ethics purposes, I understand that my recusal remains in effect for one year from the date that I last provided services to that client, and this federal ethics limitation does not extend to particular matters of general applicability, such as rulemaking. My recusal will end with regard to Okaloosa County, Florida on December 31, 2018. I will consult with OGC/Ethics should a situation arise in which I seek an impartiality determination to authorize my participation in a specific party matter involving Okaloosa County.

Pursuant to the federal impartiality standards, I also understand that I have a “covered relationship” with another former client, the Florida Department of Environmental Protection (FL DEP). However, on January 10, 2018, EPA’s Designated Agency Ethics Official issued an impartiality determination that authorizes me to participate in specific party matters that involve the State of Florida, but not on the very same specific party matters on which I worked on personally and substantially while providing legal services to the FL DEP or employed by the State of Florida.

#### *ATTORNEY BAR OBLIGATIONS*

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Thus, I will not participate in the following two cases:

---

<sup>2</sup> See Exec. Order 13770, Section 2(j), which provides that “‘former employer’ does not include ... State or local government.”

<sup>3</sup> See Office of Government Ethics Legal Advisory 17-02 (February 6, 2017), which states that, “[w]ith respect to Executive Order 13770, ethics officials and employees may continue to rely on OGE’s prior guidance regarding Executive Order 13490 to the extent that such guidance addresses language common to both orders,” and Office of Government Ethics Legal Advisory DO-09-011 (March 26, 2009), which states that “based on discussions with the White House Counsel’s office, OGE has determined that the definition of former client is intended to exclude the same governmental entities as those excluded from the definition of former employer.”

CASE NAME:	CITATION:
United States, <i>et al.</i> v. South Florida Water District Management, <i>et al.</i>	No. 1.88-cv-1886 (S.D. Fla)
BASF Corporation v. State of Florida, Department of Environmental Protection	Case No. 17-003684RP; Rule No. 62-304.305, F.A.C.

### *SCREENING ARRANGEMENT*

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Kevin Minoli, Principal Deputy General Counsel, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Minoli without my knowledge or involvement until after my recusal period ends.

If Mr. Minoli determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics.

### *UPDATE AS NECESSARY*

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff  
Kevin Minoli, Principal Deputy General Counsel  
Erik Baptist, Senior Deputy General Counsel  
David Fotouhi, Deputy General Counsel  
Justin Schwab, Deputy General Counsel  
Marcella Burke, Deputy General Counsel  
Richard L. Albores, Associate Deputy General Counsel  
Justina Fugh, Senior Counsel for Ethics  
OGC Associate General Counsels and Directors  
Regional Counsels